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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,587	01/27/2004	Elliott K. Stava	LEEE 2 00376	1746
7590	10/01/2004		EXAMINER	
Fay, Sharpe, Fagan, Minnich & McKee, LLP 7th Floor 1100 Superior Avenue Cleveland, OH 44114-2579			SHAW, CLIFFORD C	
			ART UNIT	PAPER NUMBER
			1725	
DATE MAILED: 10/01/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/765,587	STAVA, ELLIOTT K.
	Examiner Clifford C Shaw	Art Unit 1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 May 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

Detailed Action

1.) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2.) Claims 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 19 states that the liquid separating mechanism includes various components “and combinations thereof”. Claim 20 has similar language. Because of the phrase “and combinations thereof” it is unclear what the scopes of these claims are. Are all of the components present or only arbitrary combinations?

3.) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.) Claims 17 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Callahan (5,233,837). The figure in Callahan (5,233,837) discloses an exhaust gas separator with features claimed including a liquid separating mechanism associated with element 180, and a gas separating mechanism between elements 200 and 380 which function to remove carbon dioxide from the exhaust gas from the engine-generator at elements 10 and 30.

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5.) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6.) Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Callahan (5,233,837). The only aspects of the claims to which the rejection above does not apply is the provision for a releasable connection in claim 18 and for particular components in claims 19 and 20. These differences do not patentably distinguish over the prior art. It is considered obvious that the exhaust system of engine 10 is releasably connected to the engine itself, since this is standard practice in engine construction. Since the gas separator is connected to this exhaust, it must obviously be releasably connected to the engine, satisfying the claim. In regard to claims 19 and 20, it is not clear what subset of the set of components listed is intended to be limiting (see the rejection under 35USC112 above). However, the system of Callahan (5,233,837) includes a condenser connected to element 380 and a dehumidifier connected to element 180, obviously constituting one combination of the component list of claim 19. The system of Callahan (5,233,837) includes a gas filter as discussed at column 9, lines 15-20 and a gas absorber as discussed at column 9, lines 49-55, obviously constituting one combination of the component list of claim 20.

7.) Claims 1-16 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellingsworth (2,815,083) taken with Callahan (5,233,837) further taken with Blankenship

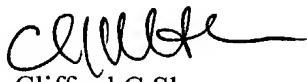
(6,331,694). The patent to Ellingsworth (2,815,083) discloses a welder and welding method with a wheeled housing containing a welding generator driven by an internal combustion engine (see figures 1 and 3 of Ellingsworth (2,815,083)). The claims differ from Ellingsworth (2,815,083) in calling for a gas separation unit that processes the exhaust gas of a welding generator engine to produce carbon dioxide for use as a shielding gas. This difference does not patentably distinguish over the prior art. The patent to Callahan (5,233,837) discloses a gas separation unit connected to the exhaust of an internal combustion engine, the engine driving an electrical generator and the gas separation unit producing carbon dioxide. At the time applicant's invention was made, it would have been obvious to have provided the arrangement of Ellingsworth (2,815,083) with a gas separator to produce carbon dioxide as taught by Callahan (5,233,837), the motivation being the teachings of Blankenship (6,331,694) that it is advantageous to employ waste gas from the electrical welding power generation unit as shielding gas in a welding process (see the figure 1 and the abstract in Blankenship (6,331,694)), thereby satisfying the claims.

8.) The patents to Boyd (4,899,544), Eric (6,543,534), and Briggeman (6,644,334) are cited to show prior art gas separation units at the exhaust port of an internal combustion engine for the purpose of extracting carbon dioxide from the exhaust. The patents to Kishbaugh (6,075,226) and to Podgurski (6,528,764) are cited to show prior art welding generators powered by internal combustion engines wherein the exhaust from the engine is used for a useful purpose other than simply being vented to the atmosphere.

Any inquiry concerning this communication should be directed to Clifford C Shaw at telephone number 571-272-1182. The examiner can normally be reached on Monday through Friday of the first week of the pay period and on Tuesday through Friday of the second week of the pay period.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas G. Dunn, can be reached at 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Clifford C Shaw
Primary Examiner
Art Unit 1725

September 28, 2004